

## Addendum

Since Part I of this Report concerning Iraq and the Downing Street Minutes was issued in December, 2005, and Part II of the Report concerning unlawful government surveillance was written in May, 2006, a number of additional events have transpired. The following is a brief summary of those matters, divided by section corresponding to the Report:

### **The Downing Street Minutes and Deception, Manipulation, Torture, Retribution and Coverups in the Iraq War**

#### Determination to go to War Before Congressional Authorization

- On February 3, the *London Guardian* detailed the minutes of a White House meeting between President Bush and Prime Minister Blair in which President Bush indicated on January 31, 2003 that he would invade Iraq regardless of whether UN inspectors found evidence of WMD. At the January meeting, President Bush reportedly stated, “the diplomatic strategy had to be arranged around the military planning.” A memo described by prominent British lawyer Phillippe Sands in his book “Lawless World,” revealed that at the meeting, President Bush stated that he was so concerned by the failure to find WMD that he proposed that the US “fly ... U2 reconnaissance aircraft planes with fighter cover over Iraq, painted in UN colours,” and added: “[i]f Saddam fired on them he would be in breach [of UN resolutions].” (Neither the Blair nor the Bush Administrations have challenged the accuracy of this new document).

#### Misstating and Manipulating the Intelligence to Justify Pre-emptive War

- On January 18, *The New York Times* reported that a high-level intelligence assessment by the Bush administration concluded in March 2002 that the sale of uranium from Niger to Iraq was “unlikely” because of a host of economic, diplomatic and logistical obstacles. The State Department assessment concluded that the sale would have required Niger to send “25 hard-to-conceal 10-ton tractor-trailers” filled with uranium across 1,000 miles and at least one international border.
- On February 2, Murray Waas of the *National Journal* reported that a highly classified CIA memo issued on June 17, 2003 determined that “[w]e no longer believe there is sufficient” credible information to “conclude that Iraq pursued uranium from abroad,” and that “[s]ince learning that the Iraqi-Niger uranium deal was based on false documents earlier this spring, we no longer believe that there is sufficient other reporting to conclude that Iraq purchased uranium from abroad.” Vice President Cheney and his then-Chief of Staff Scooter Libby were personally informed of these findings. (The Administration did not withdraw or

correct their misstatement until July 7, 2003, six months after the President's State of the Union speech.

- On February 10, in an article in the Journal "Foreign Affairs," veteran CIA agent, Paul Pillar, who oversaw intelligence assessments about the Middle East from 2000 to 2005, accused the Bush administration of "cherry-picking" intelligence on Iraq to justify a decision it had already reached to go to war. Mr. Pillar wrote that [i]ntelligence was misused publicly to justify decisions that had already been made," chiefly to topple Mr. Hussein in order to "shake up the sclerotic power structures of the Middle East." He also wrote that as a result of political pressure, analysts began to "sugarcoat" their conclusions regarding the threat posed by Iraqi weapons and about ties between Mr. Hussein and Al Qaeda.
- On March 2, Murray Waas reported that two highly classified intelligence reports delivered directly to President Bush before the war undermined important assertions the Administration had made concerning WMD. In October, 2002, President Bush personally received a one-page summary of a National Intelligence Estimate that concluded that both the Energy and State Departments believed the aluminum tubes being procured by Iraq were "intended for conventional weapons." In early January 2003, President Bush received another one-page summary of an NIE that concluded that Saddam Hussein was unlikely to attack the U.S. except if "ongoing military operations risked the imminent demise of his regime."
- On April 9, *The Washington Post* revealed that in January 2003, the National Intelligence Council, the senior coordinating body for the 15 agencies that then constituted the U.S. intelligence community, informed the Administration that the Niger uranium claim was unequivocally false. Four U.S. officials with firsthand knowledge said in interviews that the Jan. 2003 memo, which has not been reported before, arrived at the White House as Bush and his highest-ranking advisers made the uranium story a centerpiece of their case for the rapidly approaching war against Iraq.
- On April 13, *The Washington Post* reported that a secret fact-finding mission including nine U.S. and U.K. authorities unanimously issued a 122-page report on May 27, 2003 concluding that the two small trailers captured by the U.S. that month "had nothing to do with biological weapons." One expert stated, "there was no connection to anything biological," while another described the trailers as "the biggest sand toilets in the world." The *Post* article was based on their interviews with six government officials who either participated in the review or had direct knowledge of the Report. (Notwithstanding the 122-page Report, on May 29, 2003, President Bush declared that because of the trailers, "we have found the weapons of mass destruction.")
- On April 23, *Sixty Minutes* interviewed retired CIA Officer Tyler Drumheller, who headed up the CIA's covert operations in Europe before the war. He confirmed

that prior to the War, the vast majority of individuals who worked in the intelligence community recognized that the Niger uranium story was false. He stated on the show, “Most people came to the opinion that there was something questionable about [the Italian intelligence service report]. . . . [t]hat was our reaction from the very beginning. The report didn’t hold together.” Drumheller explained how the White House lost interest in information provided by Naji Sabri, Iraq’s former Foreign Minister, after Sabri had reported that “[Iraq] had no active weapons of mass destruction program.” As Drumheller stated on *Sixty Minutes*, “It just sticks in my craw every time I hear them say it’s an intelligence failure . . . . This was a policy failure . . . [t]he policy was set . . . [t]he war in Iraq was coming. And they were looking for intelligence to fit into that policy, to justify the policy.” On June 25, *The Washington Post* further reported when Drumheller saw a claim in a draft U.N speech for Mr. Powell that Iraq had mobile chemical weapons labs, supported by statements from the Iraqi defector known as “Curveball,” he “took his pen and crossed out the whole paragraph” and that when he received a late evening phone call from CIA Director Tenet the night before Powell’s speech Drumheller told him, “[h]ey, boss, you’re not going to use that stuff in the speech ....? There are real problems with that.” However, when Mr. Drumheller later “turn[ed] on the television ... there it [the reference to mobile chemical weapons labs] was again.”

- On June 27, the Senate Democratic Policy Committee held informal hearings on pre-war intelligence. Lawrence Wilkerson, former Chief of Staff to Secretary of State Colin Powell, testified that “the Vice President was using portions of the intelligence documents in ways that the documents themselves did not seem to report .... [and that] [o]thers in the Administration were participating in the distortion.” At the hearing, Wayne White, the former Deputy Director of the State Department’s Office of Analysis for the Near East and South Asia, testified that the most senior Administration officials involved “did intervene in the process of intelligence analysis... .”

#### Cover-ups and Retribution: The Niger Forgeries and the "Sliming" of Ambassador Wilson and his Family

- On April 6, Special Counsel Fitzgerald filed documents with the federal court indicating that President Bush had authorized the Vice President’s former Chief of Staff, Scooter Libby to leak classified information to the press in an effort to undermine Ambassador Wilson. Fitzgerald wrote that Libby “testified that he was specifically authorized to disclose the key judgments of the classified NIE to [former New York Times reporter Judith] Miller, and that “[defendant further testified that he at first advised the Vice President that he could not have this conversation with reporter Miller because of the classified nature of the NIE Defendant testified that the Vice President later advised him that the President had authorized defendant to disclose the relevant portions of the NIE.” The following day, White House Press Secretary Scott McClellan responded to the leak by stating, “There is a difference between providing declassified information to

the public when it's in the public interest and leaking classified information that involved sensitive national intelligence regarding our security."

- In the April 6 filing Mr. Fitzgerald further described a "concerted action" by "multiple people in the White House" using classified information to "discredit, punish or seek revenge against" Ambassador Wilson. He also found that the Vice President and his staff perceived Wilson as a threat to "the credibility of the Vice President (and the President) on a matter of signal importance: the rationale for the war in Iraq." On May 12, Mr. Fitzgerald released a copy of a note hand written by the Vice President on Wilson's op-ed specifically deriding the former Ambassador and his wife. The Vice President wrote: "Have they done this sort of thing before? Send an Amb[assador] to answer a question? Do we ordinarily send people out pro bono to work for us? Or did his wife send him on a junket?" Murray Waas of *The National Journal* subsequently reported that according to persons familiar with the President's interview with Patrick Fitzgerald "President Bush told the special prosecutor in the CIA leak case that he directed Vice President Cheney to personally lead an effort to counter allegations made by former Ambassador Joseph C. Wilson IV that his administration had misrepresented intelligence information to make the case to go to war with Iraq" and that "he had directed Cheney, as part of a broader effort, to disclose highly classified intelligence information that would ... discredit Wilson."
- On April 9, 2006, *The Washington Post* reported that what the Special Counsel did not mention was that "the evidence Cheney and Libby selected to share with reporters had been disproved months before." At Cheney's instruction, Libby was to tell Miller some of the key judgments of the NIE "and that the NIE stated that Iraq was vigorously trying to procure uranium." However, as the *Post* explained: "In fact, the alleged effort to buy uranium was not among the estimate's key judgments, which were identified by a headline and bold type and set out in bullet form in the first five pages of the 96-page document."
- On May 25, the *National Journal* reported that on September 29, 2003, three days after it had become known that the CIA had asked DOJ to investigate the outing of Valerie Plame, "Robert Novak telephoned White House senior adviser Karl Rove to assure Rove that he would protect him from being harmed in the investigation, according to people with firsthand knowledge of the federal grand jury testimony of both men." On the same day it was disclosed in a court filing by Mr Fitzgerald that the Vice President was personally angered and upset by Ambassador Wilson's column.
- On June 8, Murray Waas reported that Attorney General Ashcroft had been personally briefed on the Valerie Plame investigation for a full two months in later 2003 prior to his recusal on December 30, 2003. These briefings occurred after Mr. Ashcroft had been informed that Scooter Libby and Karl Rove were "trying to mislead the FBI to conceal their roles in the leak, according to government records and interviews." According to legal ethics expert Professor Stephen Gillers, the

Attorney General should have recused himself “once he learned the people professionally trained to draw these inferences believed there was substantial reason that Rove and Libby were involved in the leak.”

- On July 11, Robert Novak finally acknowledged that Karl Rove had been one of the sources for his column outing Valerie Plame as a CIA operative.

#### Cover-ups and Retribution: Other Instances of Bush Administration Retribution Against its Critics

- On February 16, Samuel J. Provance, an Army intelligence officer, testified that he was demoted and stripped of his clearance after speaking out in 2004 about the abuse of detainees at the Abu Ghraib prison. Provance stated, “[w]hen I made clear to my superiors that I was troubled about what had happened [at Abu Ghraib] I was shown that the honor of my unit and the Army depended on either withholding the truth or outright lies.” He added that his military career had been “derailed” and his duties in Germany consist of “picking up trash and guard duty.”
- On February 7, 2006, Warren P. Strobel of Knight Ridder reported that a State Department reorganization led by then Undersecretary of State John Bolton targeted key career weapons experts. A dozen State Department employees wrote that “the process has been gravely flawed from the outset, and smacks plainly of a political vendetta against career Foreign Service and Civil Service (personnel) by political employees.”

#### Thwarting Congress and the American Public: The Death of Accountability under the Bush Administration and the Republican-Controlled Congress

- After Representative Conyers and 51 other Members of Congress sent the initial Freedom of Information Act request regarding the Downing Street Minutes on June 30, 2005 to the State Department and the Defense Department, and after two follow-up letters to the State Department (dated September 19, 2005 and April 19, 2006) and two follow-up letters to the Defense Department (dated July 28, 2005 and April 19, 2006), the State Department finally furnished some documents in a letter dated April 21, 2006. The 28 documents from the State Department include only written and publicly given statements by then-Secretary Powell, questions taken by a State Department spokesman, and press releases - all of the documents were simply taken from the State Department’s website. As of this date Rep. Conyers has not received a response from the Defense Department regarding his narrowed request for documents and request for a public interest fee waiver.

## **Unlawful Domestic Surveillance and the Decline of Civil Liberties Under the Administration of George W. Bush**



- On June 21, *Salon* reported that in addition to maintaining a secret room in San Francisco, AT&T and the government also utilized a “secret, highly secured room” in its St. Louis network operations center. Former AT&T employees were told that “employees working inside the room were ‘monitoring network traffic’ and that the room was being used by a ‘government agency.’” As for the likely government agency involved, NSA expert Matthew Aid stated, “it’s safe that it’s NSA” while former NSA officer Russ Tice explained, “[y]ou’re talking about a backbone for computer communications, and that’s NSA.”
- On June 26, Jane Mayer of *The New Yorker* wrote a lengthy article detailing the extent Cheney advisor David Addington had excluded key decision makers - including then Secretary of State Powell and National Security Advisor Rice - from being able to raise questions concerning the domestic wiretapping program and other controversial Administration initiatives. Among other direct quotes included in the article were Powell’s statement when he belatedly learned about the NSA wiretap program that “[i]t’s Addington. He doesn’t care about the Constitution;” former Reagan DOJ official Bruce Fein’s statement that “the idea of reducing Congress to a political cipher was already in play. It was Cheney and Addington’s political agenda;” ex-Pentagon lawyer Richard Shiffrin indication after a White House meeting that he was “left with the impression that Addington ‘doesn’t believe there should be co-equal branches,’” while another participant added, “if you favored international law, you were in danger of being called ‘soft on terrorism’ by Addington.”
- On June 30, *USA Today* updated their story concerning the NSA’s domestic database program based on discussions with numerous members of the House and Senate Intelligence Committees. The paper reported that 19 lawmakers confirmed the existence of the massive telephone database program; 5 members confirmed that AT&T participated in the program; and 3 members confirmed that while Verizon was not involved, its new subsidiary, long distance company MCI did participate. *USA Today* also reported that 5 Members informed them that BellSouth did not directly participate in the program, but Senator Saxby Chambliss indicated BellSouth customers could be tracked through long distance calls routed through AT&T. Another lawmaker acknowledged that “[t]he database is not complete. We don’t know if it works yet.”
- On June 30, the Supreme Court issued their landmark ruling in *Hamdan v. Rumsfeld*. As a matter of law the decision held that President Bush’s order creating rules for military tribunals was inconsistent with both federal law (in the form of the Uniform Code of Military Justice) and international treaty obligations (in the form of Article 3 of the Geneva Conventions). The majority opinion by Justice Stevens reasoned “the Executive is bound to comply with the Rule of Law,” while Justice Breyer and Kennedy wrote in concurring opinions that “Congress has not issued the executive a blank check,” and “the Constitution is best preserved by reliance on standards tested over time and insulated from the pressure of the moment.” On July 11, the Pentagon issued a memorandum acknowledging that all

detainees held by the U.S. were entitled to human rights protections pursuant to the Geneva Conventions. However, on the same day, in hearings before the Senate Judiciary Committee, Justice Department witness Steven Bradbury testified that “the president is always right” and derided the *Hamdan* decision, referring to it as “surprising and disappointing.”

- More importantly, the decision undercuts the Administration’s legal rationalization supporting many of their other secret programs, including the NSA’s domestic warrantless wiretap program. Harvard Law Professor Tribe stated that the Administration’s legal argument for the NSA program “is blown out of the water and is obliterated.” Even the principal legal architect of many of the Administration’s program, former DOJ official John Yoo, admitted the *Hamdan* decision “could affect detention conditions, interrogation methods, the use of force” and other Administration programs.
- With regard to the Administration’s argument that the AUMF authorized increased presidential authority regarding tribunals, the Court wrote, “[T]here is nothing in the text or the legislative history of the AUMF even hinting that Congress intended to expand or alter” the Military Code of Justice statute. This holding should apply with equal force against the Administration’s AUMF argument in the context of its warrantless wiretapping program. Justice Kennedy also rejected the Administration’s contention that the President could act with greater authority than the applicable statute specified during time of war, writing “[i]f the President has exceeded [the limits set by statute], this becomes a case of conflict between the Presidential and congressional action - a case within Justice Jackson’s third category [in the *Steel Seizure* case where presidential authority is at its lowest ebb], not the second or first.” The Court also rebuffed any contention that the President has “inherent authority” to act in a war time setting in contravention of law, writing in a key footnote that “[w]hether or not the President has independent power, absent congressional authorization, to convene military commissions, he may not disregard limitations that Congress has, in proper exercise of its own war powers, placed on his powers.”
- On July 9, it was revealed that the Chairman of the House Intelligence Committee, Peter Hoekstra (R-MI), had written a letter to President Bush, charging the Administration with possible violations of the National Security Act for failing to properly brief the Committee concerning covert programs, stating, “the U.S. Congress simply should not have to play Twenty Questions to get the information that it deserves under our Constitution.” In his letter, Mr. Hoekstra indicated that there were additional secret programs that he had recently been apprised of a result of information provided by whistleblowers and which had not yet been made public.